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Calendar

April 5—Denver Bar Association regular monthly luncheon meeting, 12:15 P.M., Chamber of Commerce dining room.

May 3—Denver Bar Association regular monthly luncheon meeting, 12:15 P.M., Chamber of Commerce dining room. This is the annual election meeting for the election of officers, trustees, and members of the Board of Governors of the Colorado Bar Association, and is the final regular meeting until fall.

July 22, 23 and 24—Tenth Judicial Circuit annual conference, Post Office Bldg., Denver, Senior Circuit Judge Orie L. Phillips presiding.

September 6, 7 8 and 9—American Bar Association annual meeting, Seattle, Washington.

Judah P. Benjamin, Lawyer and Statesman

By HONORABLE JOHN W. DELEHANT

Judge of the United States District Court for the District of Nebraska. An address before the Denver Bar Association, February 3, 1947. Your editors regret that lack of space has delayed the publication of this remarkable address until this time.

I have decided to discuss before you the actual career of some eminently successful practicing lawyer. Such a subject has a direct impact upon the problems of men active at the bar. It frequently reminds them that, great or small, their perplexities are neither wholly novel nor at all insoluble, but have been encountered by other lawyers in other times and surmounted. I, at least, always am, and most of my friends at the bar ordinarily are, absorbingly interested in the careers of the authentically great men of our calling. So, I resolved to refresh your recollection of an American lawyer whose life and work have long intrigued me, whether they be regarded for their contribution to the law, or appraised in their relation to American history's most bitter crisis up to the present hour. My subject is Judah P. Benjamin of New Orleans and London, though no two cities, not even the entire English speaking world, can wholly provide the boundaries of his active life.

In presenting these thoughts upon one of the ablest, and probably the most dramatic and romantic of all American lawyers, I shall first recall for you, all too summarily, a few of the incidents of his life and thereafter offer

some thoughts to which it may well prompt us, particularly in a season of perplexity.

Few men have been as ungenerous as he towards their biographers. He deliberately sought to leave behind him no written record of his life. This determination was prompted by the counsel of his original associate in the practice of law who advised him never to retain personal records, or even the files in a case beyond the period of its immediate pendency. That course was pursued faithfully by Benjamin. And he also made no copies of letters which he personally wrote, and destroyed the orginal letters which others sent to him. Finally, at the termination of certain critical periods in his life, including the weeks before its end, he devoted a considerable amount of time to the destruction of such material, casually and unintentionally accumulated, as might come under the gaze of the curious. So, those who have sought to reconstruct him for future generations have pursued their task under obvious difficulties.

Benjamin was born in 1811 in St. Croix, one of the presently designated Virgin Islands of the United States, but then British territory, shortly to be ceded to Denmark, which would exploit it for a century and more, and sell it to us during the first World War. Thus, he was born a British subject, a status he was never personally to renounce, for he became an American citizen only through the naturalization, while he was a minor, of his father. His parents had been married in London in 1808 and emigrated thence to the islands in quest of financial success which seems always to have been beyond the competence of his father. He was entirely of Jewish racial origin, his mother being descended from the same Iberian Jewish strain that gave Britain his contemporary, Benjamin Disraeli and, years later, was to give us Justice Cardozo. And some of my well informed Jewish friends advise me that his father undoubtedly was in substantial measure of the same stock, though, so far as I am aware, his precise origin is somewhat obscure.

When he was about five years of age, and perhaps with some relation to the cession of his native island to Denmark, the family removed to North Carolina and later to Charleston, South Carolina, in both of which places his mother had certain relatives, and his father participated in successive small business ventures. The boy attended Fayetteville Academy in North Carolina with conspicuous scholastic success, and at the age of fourteen entered Yale University where he remained until he was nearly seventeen. His formal education was ended without graduation, chiefly, it seems, in consequence of financial reverses suffered by his father, though it is probable that friends had substantially assisted in the payment of his expenses both in the academy and at Yale.

But so mature and thorough was the formal instruction, thus early terminated, that he had acquired a thirst and capacity for cultural learning which prompted him to unremitting and lifelong private study, with the result that, years later, his scholarly friend, Thomas F. Bayard, could write of him: "He excelled in conversation, with an easy flow of diction, embellished by a singu-

lar mastery of languages at the base of which lay the Latin and its fibres of the French and Spanish." Similarly, when the great Senator George G. Vest, years after the Civil War, inquired of a veteran reporter of the United States Senate whose familiarity with that body encompassed the golden age of Webster, Clay and Calhoun, who within his memory was the most finished scholar in the senate, the answer was: "By all odds, Mr. Benjamin of Louisiana."

On leaving the university, Benjamin tarried only briefly in Charleston where his family then lived, and proceeded promptly to New Oleans, whose location was a portent of its commanding position in the commercial life of the still undeveloped Louisiana territory. Beside its wharves passed the great river, the artery of commerce; below it lay the ocean, highway to every port in the world; and above and westerly beyond it stretched a virgin empire. There is evidence that none of these factors escaped the youth's observation.

Bent upon the study of law, he promptly secured employment at the age of seventeen with the leading notary and conveyancer in the city and supplemented his earnings by tutoring young members of prosperous families, though in some instances, his teaching was upon the basis of barter in which he exchanged tuition in English for instruction in French and Spanish, whose practical mastery was to be of immense advantage to him in that multilingual metropolis. Without relaxing his efforts in the way of gainful employment, he shortly entered upon the study of law in a prominent office, worked almost superhumanly, and at the end of four years, or in 1832, entered upon the practice of his profession.

Within three months of his call to the bar he married; and in any appraisal of Benjamin's life, the impact upon it of his marriage must be considered. His bride was a gentile, in fact an aristocratic girl of mixed European French and Creole stock; beautiful and talented, though not highly educated; a stern Catholic, in whose practical religion, ardor and intensity were ingredients far more discernible than Christian charity; selfish, ambitious, vain and wantonly extravagant. After some years of indulgence by her husband, she wearied of the want of cosmopolitanism in New Orleans, and removed to Paris, there to spend with her daughter, and their only child, the rest of her life with the exception of a single brief and disastrous attempt to live in Washington. But this unnatural behavior on her part did not alienate her husband nor induce any estrangement between them. He supported her lavishly in Paris; repaired there annually to be with her, save only for the long interval of the Civil War; and finally spent the months of his retirement with her and their daughter in the palatial dwelling which he had erected in the French capital; and died, also in those surroundings. To this eccentric marital course may be referred some measure of Benjamin's utter absorption in his profession and his public career. Its financial exactions from him were imperative and prodigious; and it liberated him from the normal distractions of domesticity and left him free to yield to his impulse towards concentrated work.

Before leaving this intimately personal aspect of his career, it is appropriate to make a further observation. Benjamin has sometimes been referred to as an apostate from the faith of his fathers. But such a notion appears to be ill-founded. It probably rests almost entirely upon the fact that his funeral services were conducted in a church of the faith of his wife and daughter and he is buried in the celebrated Pere LaChaise cemetery. But a reasonable familiarity with French elasticity in such matters refers them rather to a courtesy toward his family than to an appraisal of his own ecclesiastical status. The truth appears to be that though, even as a youth, and for reasons too complex for present discussion, he became remiss in the observance of the religious practices of Judaism, he never abandoned his basic faith in it, and throughout his life remained justly proud of his racial origin.

His industry and diligence were quickly rewarded with success at the bar. Rarely seen in criminal proceedings, he was a master of the field of commercial jurisprudence, for which New Orleans was so admirably situated. Thus, by the time he was thirty-six years of age, the press of New Orleans, and the annals of its bar placed him among the acknowledged leaders of its lawyers, and he was already a wealthy man.

But at about that point in his life also, adversity first overtook him. His almost incessant application to study resulted in the impairment of his vision in such measure that he could not read. So, he abandoned the law and devoted himself exclusively to the operation and expansion of a large sugar plantation below New Orleans in which he had already invested large sums of money gained in his practice and where he built the beautiful and costly "Bellechasse" mansion. That business initially flourished, and Benjamin invested profitably a great deal of money in scientific and mechanical improvements in the production and refinement of sugar. In fact, lecturing before learned societies and publishing articles in scientific magazines, he became one of the leading authorities of the world upon the technical side of the sugar industry. However, his striking success as a sugar planter, though solidly grounded, was brief. For after a few years a destructive flood ruined his plantation and his collapse was completed by his payment of a friend's note for $60,000 which he had endorsed with the usual consequence of that gracious gesture.

Fortunately, his relief during some five years from the law's drudgery had resulted in the restoration to full effectiveness of his vision and he returned to his legal practice. His success upon this second service of the law was immediate and striking. It carried him shortly into a substantial share of the larger cases pending in the New Orleans courts and before the state's supreme court. It involved him in litigation and business negotiations in remote California, Texas, and Mexico. And it led him to a position of acknowledged eminence among the advocates before the bar of the Supreme Court of the United States. Some measure of his standing at the American bar may be discerned in the tender to him both by President Fillmore and by President

Pierce of an appointment to membership on the Supreme Court which he declined for a two-fold reason; first, because his financial contributions to his immediate family and his other relatives far exceeded the salary of a justice of that court, and secondly, because he preferred the life of the advocate and the active political career in which by that time he was well advanced.

And that suggests a fleeting and inadequate glance—for time will allow no more—at Benjamin's public career in America, for it is a part both of the man and of the lawyer. In the United States of the three decades preceding the Civil War, it was quite the normal thing for an eminently successful lawyer to be, at the same time, vigorously and officially involved in public life.

Even before the temporary abandonment, for the sake of his vision, of his legal career, he had become a considerable factor in the political life of New Orleans and Louisiana. In 1842, after a bitter campaign, he was elected to the lower house of the Louisiana General Assembly, as a Whig, for he originally adhered to the party of Clay and Webster. From that time forth until he left our shores, he was continuously involved in political controversy, and with a few interludes engaged in the holding of public office. In 1844 and 1845 he took a conspicuous part in the remaking of the constitution of Louisiana as a member of the constitutional convention. In 1851 he was elected as a member of the state senate of Louisiana, and served through its 1852 session. It is interesting that this legislature, of which he was a member, elected him to the United States Senate for a term commencing in 1853, and that, thus elected, he remained in the legislature and in the very center of its many violent controversies; and that, also in the interval prior to assuming his duties in the national senate, he sought and obtained election to the Louisiana Constitutional Convention of 1852, its second in seven years, and in that convention led the prevailing and controlling group of delegates.

If his public career had consisted of nothing more than his service in the United States Senate, that alone would have marked him for distinction. He entered that body on March 4, 1853 with the inauguration of President Franklin Pierce, less than three years after the deaths of Clay and Calhoun and only months after Webster's death, and his tenure ended with the attempted sundering of the Union after the election of Abraham Lincoln. Taking the oath with him were the new senators, Sam Houston of Texas, and Stephen A. Douglas of Illinois. Elected as a Whig, he repudiated his party midway in his term, and became a Democrat. Despite that usually suicidal gesture and the antipathy which it engendered among his former associates and the diffidence of his new political bedfellows, he was reelected in 1859 for a second six-year term. But he forsook the senate on February 4, 1861 to cast his lot, in the then gathering struggle, with the state of Louisiana and shortly with the confederacy.

I wish I might forget the proper limitations of time, and quote for you passages from some of the celebrated speeches which he delivered in the senate. There is eloquence in them; and scholarship, and beauty, and logic,

and pathos. For, of such ingredients is true eloquence compounded. To be sure he spoke in a season of tragic and desperate earnestness, calculated to inspire high sentiments and evoke magnificent diction. But Benjamin was capable of both.

He appreciated how generously the United States had dealt with him. As a consummate realist, he appraised maturely the superior might of union in contrast with the infirmity of discordant elements of a broken nation. And he espoused secession with frank reluctance and took a restrained and sobered view of the prospects of southern success. Yet, as a senator he was consistently the masterly lawyer. In perhaps a half dozen genuinely great addresses upon the senate floor, he vindicated the logic of the position of the withdrawing states, whose only historic answer was the voice of restraining might. Most notable of all was his final effort, upon which he resigned and departed from the senate. Of it no friend, but a general of the Union army, has written: "I heard the farewell speeches of Senators Jefferson Davis of Mississippi and Benjamin of Louisiana. Mr. Benjamin appeared to me essentially different from Mr. Davis. Notwithstanding his incomparable abilities and the fact that he became a secessionist with great reluctance, he never excited animosity in me or in any other northern man so far as I am aware. When I listened to his last speech in the senate, I was transported out of myself. Such verbal harmony I had never heard before! There was neither violence in his action nor anger in his tone, but a pathos that lulled my senses like an opiate that fills the mind with delightful illusions. I was conscious that it was Senator Benjamin who spoke, and that his themes were mighty wrongs and desperate remedies; but his words I could not recite; nor can I yet recall them. Memory, however, restores the illusive pleasure they left, which is like the impression I retain of my youthful days." The tribute itself is sheer eloquence, but for its vindication I invite you to read the speech and its predecessors in their entirety.

Remember, too, that Benjamin coupled a very large and lucrative law practice with the performance of his senatorial duties. While in Washington he appeared repeatedly before the Supreme Court; and during senatorial holidays then much longer than in 1947, he was probably the busiest lawyer in Louisiana, particularly before its Supreme Court.

The magnitude of his practice during that period before the Supreme Court of the United States may be understood when it is remembered that he appeared on retainers in substantial cases arising in many states, and that during the decade of the 1850's his cases there were surpassed in number only by those of the aging Reverdy Johnson, who had succeeded to the pre-eminence held by Webster on the latter's illness resulting in his death in 1852.

But March of 1861 saw an end of all this. For, almost immediately upon withdrawing from the senate, he left New Orleans for a conference at Montgomery, the first capital of the confederacy, never again to see the city of his residence or the members of his family left dwelling there. It was not

possible for one of his great ability to remain aloof from the government of the Confederate States; and the truth is that he sought no abstention.

First, as attorney-general and later as both attorney-general and secretary of war of the new government, he was only doubtfully successful. The task of the confederate secretary of war was destined to be thankless and superhuman, in view of the resolution of Mr. Davis, a West Point graduate and professional soldier and late secretary of war of the United States, to direct the armies of his ill-starred country. But, shortly, Benjamin was relieved of these offices and made secretary of state where he served brilliantly until all was lost.

I must pass over this interlude of authentic statesmanship, though I do it with acknowledged reluctance. If my audience, instead of lawyers, were a class in American history or government, those four years and slightly more, would be a subject appropriate for a dozen lectures, for, through Benjamin's life during them, flows the very history of the confederacy. His correspondence with Mason and Slidell, the commissioners and advocates of the confederate states, at the courts of St. James and the Emperor Louis Napoleon, respectively, is a drama whose theme is the alternating confidence, despair and hope and the final disaster of the short lived republic. And it required Mr. Benjamin, the lawyer, for its leading character.

But with Appomatox and the subsequent flight of the Davis government, the secretary, realizing that in the northern states he was the most hated man of the defeated confederacy, resolved upon a self imposed exile, and by successive disguises, managed to elude the pursuit of the federal soldiers and to escape, first to Cuba, thence, through the Caribbean Islands, and finally, after months of journeying including at least two nearly fatal shipwrecks, to England.

And so, at the age of fifty-four, this man who had already lived more abundantly than most people may anticipate from a century, found himself in the very heart and center of conservative inhospitality, an exile from the soil on which he had earned renown, with a price offered for his capture and return to a vindictive retribution. Too, with very heavy obligations for the support of his family he was in precarious financial condition. For, though he had lately invested all his remaining and available fortune except his lands in southern cotton, of which some eight hundred bales had shrewdly been placed on board ship for England, barely a hundred bales, and these in damaged condition, escaped the vigilance of northern ships and the ravages of storm and reached England. However, the price per bale was such that he realized twenty thousand dollars out of what, without disaster, would have been a comfortable fortune. And this twenty thousand dollars, with prudent rationing, provided him with the means for his family's support pending the restoration of his earning capacity.

The talents of their newly arrived guest were not unknown to the English, who though cautious about offending the now successful North, had quite

generally desired a confederate victory and stood ready to deal kindly with Benjamin as a token of their actual preference in the rebellion. Accordingly, British journalism tempted him with flattering offers of employment in literary pursuits, which he accepted only to the extent of contributing special articles to periodicals, yield him less than enough for his personal subsistence pending his call to the bar.

For he resolved early—if indeed there was every question on the score—to prepare for the English bar. His birth on British soil provided him with the requisite British citizenship. But formal study and preparation were imperative notwithstanding his recognized learning. So, on January 13, 1866 he enrolled as a student of law at Lincoln's Inn with Charles Pollock, the son of Sir Frederick, and himself later Baron Pollock, as his instructor, and with no assurance that the customary three years of apprenticeship would be forgiven. But, to his gratification, on June 6, 1866, he was dispensed from the rest of his term and called to the bar.

This is the place at which his famous text on "Sales" should be mentioned, for it was at this period in his career that it was projected. I have heard it asserted mistakenly that he wrote the volume while he was a student at the inns of court. He actually wrote it in the first two years of his career as an English barrister, those years that were calculated to be lean for him as their counterparts have been for every one of us; and it was published in 1868. Extant originals of letters he wrote to friends and his sisters show that his purpose in writing it was to cover a then textually unexplored field of law with a degree of skill that would challenge the attention to his learning of the British bar and commercial interests; and that he hoped for little if any profit directly from the sales of the work, a prospect that was probably accurately appraised. This was not his first venture into legal literature; and the former one was undertaken at a comparable period in his New Orleans professional career. When he was admitted to the Louisiana bar there was no available digest of the Spanish and French decisions in the area's territorial period or of the opinions of the Louisiana Supreme Court up to that point. Accordingly, and originally for his own use in his practice, Benjamin prepared in his beautiful and careful longhand script such a digest in textual form. But by the time he had been in practice for two years its fame among Louisiana lawyers had grown to such an extent that he had revised and published it in association with his lifelong friend and his fellow student at Yale, Thomas Slidell, later Chief Justice of the Louisiana Supreme Court, and brother, as I recall, of John Slidell who was to be Benjamin's associate in the United States Senate and the confederacy's representative in England under Benjamin's guidance.

His success at the English bar was astonishing, even if it did not achieve the logarythmic proportions sometimes claimed for it. The minimum reality is almost incredible. From sources that, so far as they extend are accurate and reflect his earnings at figures below which they certainly did not fall, it is

shown that in the third year of his practice there, he received more than five thousand dollars in net fees; that they rose quickly to approximately ninety thousand dollars per year, and that in the sixteen years of his practice, he received in net fees, no less than seven hundred fifty thousand dollars. It is claimed, though it is not demonstrable, that for several years his income exceeded one hundred twenty thousand dollars annually. All this on the purely material side.

In professional standing his English legal career was even more exceptional. He was made Queen's Counsel in 1872 and shortly thereafter was accorded a patent of preference. So great became the demand for his services that he was finally compelled to limit his advocacy to cases before the House of Lords and the Privy Council. The most eloquent evidence of the appraisal of his ability and merit is to be found in the fact that when, in June of 1883 he felt constrained, from considerations of health, to retire from practice to the home of his wife and daughter in Paris where, a year later he was to die, he was accorded the then unprecedented honor of a farewell testimonal dinner by the barristers of England, attended by the acknowledged leaders of the bench and bar of the nation.

Many factors undoubtedly conspired in the achievement of this final one of what were actually his three careers at the bar. Some were political, some local. Probably, as has been asserted, he was regarded with initial and auspicious favor by the wealthy tory class of British society, politics, and finance, who had actually desired the defeat of the federal cause in the Civil War and the confusion and ultimate destruction of the upstart nation builded from Britain's rebel American colonies. And, certainly, he was shrewd in seeking his practice chiefly in the industrial north of England with particular orientation to Liverpool whither his fame as a lawyer had preceded him, in consequence of the commercial relations between Liverpool and New Orleans.

But I need not remind the members of a bar association that whatever introductory favor might have issued from those factors, they were not, alone, or even principally responsible for his success.

The cause of that was Benjamin, his vast and cosmopolitan learning, his tireless industry, his striking personality, in fine the man in his entirety. Upon one only of these elements need I dilate. His success argues for the rest. But remember that he was first broadly educated basically, and then schooled with almost equal accuracy in the common law, in the civil law as modified by the Code Napoleon, and in the Spanish law. This diversified scholarship had stood him in good stead in young and developing Louisiana. It is reflected in the text of the original volume on Sales. And it was invaluable in the equipment of the leader of the bar of the center of the commercial empire then maturing under the reign of Victoria and the rival policies of Gladstone and Beaconsfield.

His method in presenting an argument, either orally or in writing, to a court or judge was singular. Invariably, he opened an argument or brief

with a closely reasoned analysis of the abstract legal position which he felt called upon to maintain. And, this done, he proceeded to articulate the facts of his pending case into the law which he had already demonstrated to be valid. Many English barristers and American lawyers have remarked upon the striking effectiveness of this order of presentation under his masterly employment.

I have long regarded a recollection of Mr. Benjamin's career as an antidote to the temptation to despair to which we in the profession are not infrequently subjected. I can not think of any American—not even Abraham Lincoln realistically rescued from juvenile texts on history—who, more repeatedly and more triumphantly than Benjamin, survived that inclination.

On at least three major occasions—and and at other times to some extent—he saw his financial fortunes in ruins. The rich Belleschasse plantation was almost completely destroyed. At least two other business ventures, which time has forbidden me to mention, collapsed to leave him virtually bankrupt. The Civil War and its tragic end despoiled him of a fortune in real estate and left him with only a salvaged fraction of his personal holdings, quite inadequate, for any substantial period, to meet the demands made upon him by his family. Approximately eight years before his retirement he made an outlay of every asset he possessed to provide a dowry of three thousand dollars per year for his daughter whom he dearly loved. And from that point he proceeded, notwithstanding the subsequent expenditure of eight-five thousand dollars in the erection of the new Paris home for his family, to accumulate a final fortune which on his death, included personal property appraised at more than three hundred thousand dollars.

His devotion to his family, both his wife and daughter, and his mother and sisters was notable. I have already adverted to the eccentricity of his own domestic career. Despite its irregularity, it seems never to have embittered him or tempted him to cynicism or to any disordered living. Discord appears to have separated his parents with the consequence that Benjamin assumed the responsibility for the support of his mother and two of his sisters, one unmarried, and the other a widow. He maintained them in luxury and delighted in making lavish presents to his nephews and nieces. Quite incidentally, two sons of one of his sisters were Mr. E. B. Kruttschnitt, a distinguished member of the New Orleans bar at the change of the centuries, and Mr. Julius Kruttschnitt, late president of the Southern Pacific Railroad Company.

The collapse of the confederacy, and his own status as a hunted traitor, left him sorrowful, indeed, but neither despairing nor complaining. He took his plight quite philosophically. In fact, it would be difficult to discover correspondence more ebullient and more uniformly cheerful than the letters he wrote to his sisters during his several enforced pauses at island havens in the course of his hazardous and frequently interrupted journey of escape from Florida to England in 1865. Recognizing that his former distinguished career had definitely and permanently ended in obloquy and in material failure; that his present was perilous both physically and financially, and his future

quite inscrutable, he, nevertheless, refused to descend to pessimism, persisted in good cheer, and spoke confidently of then incubating plans for the re-establishment of his fame and fortune. For us who are wont to bewail a single blighted aspiration, he is surely an exemplar of hope.

But perhaps his most unique characteristic was his ostensible indifference to criticism and calumny. The adjective "ostensible" should not be neglected; for it is hardly to be supposed that a nature as sensitive as his could remain unwounded by the bitter personal recrimination to which he was almost constantly subjected throughout his American career. He literally lived in the midst of controversy; and much of it was undoubtedly inspired by his own success, his bearing, and his subtle and fastidious personality. I shall offer here no adequate catalogue or examination of the accusations brought against him, although without a knowledge of them, it is quite impossible to understand the man or to appraise his career. Not all of them were without foundation, though certainly most of them were rooted in the malice and intemperance of the time and events, during which he lived so actively and daringly and brilliantly.

His financial speculations and promotions, whose index extends from purely personal investments to semi-public ventures in several railroads, both in the southern states, in Texas and in Mexico, and mining operations in California, and Guano development in South America were often stigmatized as chimerical or worse. In his political career, he was censured for the frequent changes in his publicly expressed opinons and programs, for electoral manipulations, and especially for the advocacy of concrete measures cherished by his properous and generous professional clientele. He was cruelly pilloried because of the circumstances of his domestic life, although I am unaware of any charge against his personal morals. His racial origin was constantly urged against him. He was even charged seriously with adherence to the "know-nothing" movement; he whose birth had occurred on foreign soil, whose family was Jewish; and whose cherished wife and daughter were Roman Catholic. But personal and political hatreds have never made a virtue of sanity or a vice of intrinsic incongruity.

His great learning, ability, and industry made him the natural and acknowledged director of any project to which he bent his efforts; and the confederacy was no exception to this rule. He was recognized as the intellect of the rebellion; the framer of its constitution and principal laws; the inspiration of its propaganda; and especially the genius of its diplomacy. Quite naturally, therefore, all of the intolerant hatred of which the North was so notoriously capable descended on his person. Its variety was almost infinite for he was absurdedly charged with the creation of projects ranging from local southern cruelty to federal soldiers, through the depressing harshness of Andersonville, to the attempted burning of New York City. He was, in utter reality, the whipping boy of the confederate states.

The very acuteness of his intellect made him a target for such calumnies.

For without particularization, of which a startling documentation could be drawn from the history of races, nations, philosophy and religion, I merely remind you that, in seasons of controversy, one's intellectual capacity for brilliant and subtle reasoning is a temptation to suspicion and criticism from small and obtuse minds.

In the face of such attacks Benjamin, with almost no departures, maintained a consistent practice. He denied nothing; he answered nothing; with the natural consequence that his tormentors were uniformly infuriated, and often confounded.

The outstanding instance in which he departed from this rule of silence under attack may be mentioned. In 1861, with the incipient war's hatred at its height, a story was circulated through the northern press which found its way to the south, that he had left Yale to avoid expulsion after being detected in a series of petty thefts of personal articles and money from fellow students. Benjamin who had ignored so many accusations of major adult misconduct was singularly roused to rage over this charge, brought more than thirty years after the event, of misconduct at the age of sixteen years. Our of the ensuing controversy two facts emerge as probable. It is likely that he did leave the university under some disciplinary stricture, as well as from considerations of financial necessity, But, on the other hand, the specific accusation made against him stands unproved and intrinsically suspicious on at least two grounds; first, it is exact and meticulous as to date and attributes the occurrence to a time more than a year after Benjamin had certainly left Yale; secondly, its origin has been traced to two fanatically anti-semetic and anti-slavery clergymen writing in The Independent, an abolitionist organ under the editorship of Henry Ward Beecher, who was himself no paragon either of virtue or of intellectual honesty, but rather a first-rate calumniator.

So much, by way of hurried recollection, of a great lawyer and statesman. I do not vainly imagine that I have portrayed for you either the life, or the character, or the abilities of Benjamin. But I do allow myself the hope that I may have provoked one or another of you to examine the literature touching him, and thereby to catch a glimpse of what intelligence, study and industry did for one man, not always under favorable auspices, and may—who knows—still do for a rare soul who has the good fortune to possess and manifest them.

I close with one further comment. After writing this paper down to the end of the last preceding paragraph, I found myself prompted to read a new volume on Benjamin's life, entitled "Judah P. Benjamin, Confederate Statesman" published in 1943 and written by Professor Robert Douthat Meade. It is an orderly and scholarly biography in the modern method. But I have not been prompted by it to any revision of the foregoing comments. The truth is that it leans quite heavily and with commendable frankness on a biography published in 1906 by Pierce Butler—not the judge, but a southern scholar of Irish descent bearing the distinguished name—and on Butler's material and bibliography. These, I think, are the principal works of broad scope

upon the subject; and between them, particularly for literary style, I am rather inclined to prefer Butler's effort. But that is an arguable conclusion. The Meade volume is altogether excellent and reflects a high measure of critical scholarship.

From our standpoint as lawyers, it is to be regretted that some competent legal scholar has not been prompted to prepare a biographical study of him will repay the reading; and that will be doubly certain if the writer will only with special emphasis on Benjamin the lawyer. Perhaps he may yet beckon to a Beveridge of a later generation; and if he does, I am sure that the result behold his subject in its true context, and not endeavor wholly to divorce the lawyer from the statesman, the politician, and the man.

Uniformity in Procedural Matters as Contributing To The Administration of Justice

By VANCE R. DITTMAN, JR.

Professor of Law, University of Denver, School of Law. An address before the annual conference of the Tenth Judicial Circuit, Denver, Colorado June 13, 1947.

In considering the problem of uniformity, we have first to decide exactly how broad we intend this uniformity to be. It is one thing to talk about uniformity in procedure and another thing to talk about uniformity in the interpretation of the rules of substantive law; one thing to talk about uniformity in either aspect within the federal courts alone, and another thing to talk about that same uniformity as extended to all the courts of all the 48 states as well as to all the federal courts. There at least purports to be a uniformity of procedure among the various federal courts, at all levels, in the vast majority of cases coming within their jurisdiction in either the civil or criminal field, and regardless of the state in which that court may be sitting. So, we have at least a framework upon which has been started an already large and a steadily growing body of case law related to the purely procedural field. As to how adequate that will be remains to be determined from that mass of future case law yet unmade.

So far as a uniformity of procedure in that over-all picture which includes the courts of all jurisdictions, we do not, at present, have even a good start to achieve that end. Some effort has been expended in that direction by the adoption of rules of procedure designed after the federal rules, with appropriate changes, as has been done in this state. But such instances are notable because they are unusual, and not because they in any way indicate a trend. Because of this actual picture—uniformity on the one hand and an almost total lack of uniformity on the other—we can form an opinion of some value as to the desirability of the practice.

Before discussing this at greater length, it might be well to dismiss with

a word, as calling for more discussion than this opportunity affords the time for, the matter of uniformity in the interpretation of the rules of substantive law. There was a time when there was every reason to believe that a tendency in that direction was being indicated by the federal courts. But the much discussed decision in *Erie Railroad v. Tompkins* may well justify the inference that whatever start had been made in that direction has now become more difficult, if not impossible, of realization so long as that case stands as law. Perhaps the Supreme Court was motivated by an unspoken feeling that such uniformity was not desirable. There are many who will subscribe to that view. And the issue can be argued most persuasively at length on either side. We shall advert to this decision later on.

Before considering the controversial question as to whether a uniformity of procedure is desirable or not, it is appropriate to see what results have been achieved under a system which purports to encourage uniformity. If uniformity is ever desirable, it should be so in those courts which constitute one large judicial system within themselves. I refer, of course, to the federal court system, in which all cases are potentially subject to the rules of decision of the United States Supreme Court and in which all courts may be guided by the mandates of that high court. But such a view of the matter is only theoretical, for it is obvious that it would be impossible for the Supreme Court to resolve all possible problems of procedure as they arise, nor, indeed, is it to be expected that the court will even attempt to do so. And even if it did, the lapse of time necessary to a full determination of the possible questions would almost surely result in a continual necessity for further review of those older decisions which changing conditions indicate require revision.

But this practical approach actually begs the question of the desirability of such a condition. Let us assume that it were possible to secure a prompt and complete body of decision by the Supreme Court on all basic and significant problems that could arise under the rules, and that all of the federal courts could interpret these decisions uniformly and apply them in a substantially similar manner to the fact situations in all cases. Would it be desirable, even then?

This question, it seems to me, can only be answered in the light of the obvious fact that we do not have an omniscient judiciary in the high court. This is, of course, not peculiarly true of this court, inhering in all human institutions. If rules of procedure sufficiently detailed and sufficiently inclusive to assure uniformity are to be interpreted by one court, we might assure ourselves of a procedural system as rigidly fixed in its course as are the planets in their orbits. That is conceivably possible, but is it desirable? Will it promote justice? And if the concept of uniformity is not carried to this extreme, how can it be uniformity? For example, if a circuit court, by a unanimous decision, decides that a well established rule of procedure must now be departed from, and writes a decision well calculated to induce the Supreme Court to follow in its footsteps, there are two courses open. The Supreme

Court may reverse because the rule has not been followed, or it may affirm, on the theory that the rule must be changed. If it reverses, it thereby discourages all original thinking by the lower courts, and repeated reversals made necessary by the persistancy of a few brave judicial souls will only serve the more to discourage further departures into those paths of experiment which have marked the way for so many new and desirable concepts of the purpose of law. If the Supreme Court affirms, it thereby admits that the rule is not to be one that can be depended upon to apply in every case, unchanged and unchanging. And that means that the concept of uniformity is gone, for then any lower federal court may, with impunity, interpret any rule as it pleases, with the hope, and perhaps the expectation, that its interpretation will later be approved. Thus we ultimately arrive at the point where we started.

Furthermore, as a practical matter, we know that the courts differ in their interpretation of the decisions of the Supreme Court. For example, the recent Supreme Court decision in the case of *Hickman v. Taylor,* which has been the inspiration for so much comment, and which is known to all of you here, did not actually involve the question of privilege in connection with the taking of interrogatories under rule 33, although both the Circuit Court and the Supreme Court tentatively suggested that the privilege rule should apply to rule 33. This was *dictum.* What was actually decided in that case was that discovery proceedings under rule 33 could not be used to secure disclosure of what the Circuit Court called the "work product of the lawyer". That would seem to be clear enough. Yet already, the District Court of the United States for the Eastern District of Pennsylvania, in December 1945, in *Terrell v. Standard Oil Co.,* 5 F.R.D. 510, said: "In view of the very recent decision in the Hickman case, I will not require the defendant to answer interrogatories 39 and 40, since, as put, *they refer to privileged matters.*" The court clearly misinterpreted the Hickman case. Uniformity, if it means anything, should include the ability of all trial courts to apply the rules of procedure in the manner indicated by the Supreme Court. But we know, of course, that any assumption that the trial courts can do so is a false assumption as to the extent of their ability.

But perhaps we take too narrow a view of the meaning of uniformity in the administration of justice. The courts, after all, take a just pride in their ability to see through the form into the substance, and have never intended that rules of procedure shall be treated as so many patterns to be pulled out of the appropriate pigeon-hole. The rules, it may be said, were drawn with sufficient flexibility so that they could be made to fit any case and at the same time fall into their proper places in a total picture, the over-all effect of which will apply in a certain way to a given fact situation under all circumstances. The difficulty is that it is not, or at least has not so far been, possible to draft any set of rules to assure that result. Already experience has proven that the rules need some clarification and extensive amendments have

been adopted, to become effective soon. These amendments will doubtless require many more interpretive cases, some, perhaps, enunciating rules of procedure different than those to be followed under the rules as they now exist, thus introducing still further conflicts to be resolved by the Supreme Court. The very amendments themselves, designed to assure further uniformity, will be the source of divergent constructions, and if we wish to take the chance of making a prediction, will appear to require still further amendments, and so *ad infinitum*. I believe that uniformity either as it becomes apparently fixed by judicial interpretation of a set of rules, or as it is attempted to be embodied in the rules themselves by a complete coverage of the subject matter, with amendments when needed, is an impossible ideal.

But the fact that an end is not possible of achievement in its entirety will not necessarily require an abandonment of all efforts toward that end. It may be that whatever is achieved in that direction is a worthwhile gain, though complete realization is impossible. Certainly some uniformity of practice under some sort of rules will achieve many desirable ends. A very cursory examination of the multitude of decisions by the various federal district courts all over the United States will disclose immediately that the decisions are more notable for their uniformity of interpretation than for their diversity. That is most encouraging for the advocate of uniformity. But is it not putting the cart before the horse to conclude therefrom that a definite policy of uniformity is both possible and desirable.

Would it not be better to view the situation realistically and to recognize that this is not an argument for uniformity, but simply a manifestation of the fact that the courts do think pretty much alike anyhow and that we are very apt to have a uniform administration of rules of procedure by all courts acting under such rules? I mention this to suggest the desirability of permitting the courts to exercise their judgment independently, free from any sense of compulsion to conform to any uniform system. I believe that thereby whatever benefits are to be secured from a uniform practice will be realized, and, at the same time, there will be avoided the stultifying effects that inhere in a system that is avowedly adopted with the idea that it will secure uniformity at all costs. Uniformity, it seems to me, is desirable up to a point, but beyond that point it becomes an evil in itself, for the reasons already suggested.

Passing now to the question of uniformity as it applies to the larger field of both the state and federal courts, the difficulties apparent in the more limited field are many times multiplied. This is true, of course, because of the fact that the state courts are sovereign in a large field of the law that is untouched by the federal court system. This simply means that most of the cases in the state courts are not directly subject to the rules of decision of the United States Supreme Court, so that there is not only the problem of interpretation by the lower courts, which I have attempted to show is a troublesome one, but there is added the factor of many rules of decision arising out of the courts of last resort of the respective states. While this present a very real

problem, in the practical sense, and one which would have to be met before uniformity could be obtained, let us again, for the sake of this discussion, assume that not only would it be possible to have adopted a uniform set of rules, but that we could also have a uniform interpretation of the rules. Again we ask the question—would this achieve a desired result?

The observations already made with regard to the federal courts apply with even more force to this situation, although perhaps the difficulty here may not be as extensive as might be supposed. The main difference as compared with the federal courts is that the inherent weakness is multiplied by one very significant factor—the loss to the whole system of the constructive criticism of a much larger number of judges who are bound by the rule of uniformity to the point where they cannot give to the courts and the profession their mature judgments on possible improvements. And when we deprive our judicial system of the benefits that could be derived from this source, we most surely have limited, to that extent, the administration of justice in the field of even substantive law. A procedure which is to remain uniform for any considerable period of time cannot possibly advance the application of the substantive law under widely varying circumstances.

I have heretofore assumed a possibility of a uniformity of decision in discussing the question of the desirability of such a course. I have done this in order to consider the abstract question alone, stripped of considerations of expediency. I believe that such a discussion is interesting and valuable, but it does not completely, it seems to me, express the considerations which should be taken into account in weighing the advantages and disadvantages of an eslished system of uniformity of procedure. The problem cannot really be stripped of those considerations of expediency. The courts must face conditions and facts as they are, and that includes the practical difficulty already alluded to of securing a real uniformity of decision and interpretation by all the courts. The following observation of Mr. Justice Brandeis, in *Erie Railroad v. Tompkins,* applies with equal force to the courts of the federal system on issues not determined by the United States Supreme Court, as it does to the state courts, and presents a most practical answer to the problem of uniformity in actual practice. That statement is: "Experience in applying the doctrine of *Swift v. Tyson* had revealed its defects, political and social; and the benefits expected to flow from the rule did not accrue. Persistance of state courts in their own opinions on questions of common law prevented uniformity; and the impossibility of discovering a satisfactory line of demarcation between the province of general law and that of local law developed a new well of uncertainties."

Perhaps it may be said that this statement is truly applicable to those states only which already had a substantial body of decision on questions of common law at the time of the decision in *Swift v. Tyson* in 1842. But the western states, and particularly the states constituting the Tenth Circuit, had no substantial body of such decisions in 1842, nor do they have today so

large a body of such decisions as do the eastern states in the older part of the country. Will Mr. Justice Brandeis' reference to the "persistance of state courts" apply equally well to the federal courts in these newer states? How do we know they will persist in their own opinions? Of course, we do not know. And there may be considerable force to the argument that they will not do so, if given the opportunity to follow a rule of uniformity. But it is submitted that this is not likely, in view of judicial history. They rule of the Tompkins case itself is a departure from the uniformity that was established by *Swift v. Tyson,* and that persisted for almost a century, with only minor invasions, expressed, notably, in some of the dissenting opinions of Mr. Justice Holmes. If ever a rule of uniformity was established, here was the case. And yet the Supreme Court itself adopted a new rule of non-uniformity. It is true that the case involved no positive rule of substantive or procedural law, but the rule established under *Swift v. Tyson* recognized that vast body of general law to which Mr. Justice Story referred when he stated that Section 34 of the Judiciary Act of 1789 did not apply "to contracts and other instruments of a commercial nature, the true interpretation and effect whereof are to be sought, not in the decisions of the local tribunals, but in the general principles and doctrines of commercial jurisprudence." Is there any real reason to believe that the courts of even this new circuit will feel themselves any more bound by a set of procedural rules that happen to be in codified form, than was the United States Supreme Court bound by the clear rule of the case of *Swift v. Tyson* on a matter of general law?

The problem must, it seems to me, remain unanswered. I have attempted to suggest very briefly, the two phases into which it naturally falls—whether it is at all desirable to have uniformity, and whether it can be achieved in any event. About the first element, it seems to me, there may easily be considerable difference of opinion. I have reached the point in my own thinking where I have grave doubts as to whether we should even try for uniformity. But, at the same time, I recognize that modern methods of communication and ever increasing freedom of intercourse among our citizens may demand a judicial approach that could not be anticipated even so late as 1937 when *Erie Railroad v. Tompkins* was decided. If substantial progress could be made in that direction experience might prove that it is highly desirable. As to whether or not such a goal is possible of achievement, it is doubtful if there can be any real difference of opinion. I believe that most people will admit that complete realization is well nigh impossible. There are those who will contend for the proposition that partial achievement is at least a step in the right direction, and well worth trying. It logically follows, from my own doubt as to the wisdom of uniformity, that I do not advocate even an attempt in that direction.

In concluding, I do not wish to be understood as being opposed to the federal rules of procedure. I merely contend that such uniformity as follows the natural interpretation of the rules is desirable, but that it would be un-

desirable to approach the question from the standpoint that uniformity is the goal to be achieved. The goal is justice in the administration of the law; uniformity is a mere useful incident along the way which should be applied when proper or necessary to achieve the end of justice, but which should not be sought for its own sake. Public interest does not require uniformity; it requires justice.

Board of Governors Meets

A meeting of the Board of Governors of the Colorado Bar Association was held at the Broadmoor Hotel, Colorado Springs, January 31, 1948.

As the first order of business, the treasurer of the Association, Vernon V. Ketring, presented his report which included among other things, a statement that in the calendar year 1947 twenty-five per cent of the receipts of the Association was derived from sustaining memberships as compared to total dues paid, whereas in previous years sustaining memberships had made up to fifty per cent of the total receipts of the association.

Mr. Van Cise then outlined the current plans and activities of the Judiciary Committee, informing the board of the constitutional and statutory obstacles which make difficult the placing of the proposed judiciary revision recommendations on the ballot this fall. He stated that the committee has divided the proposals of the committee into three categories: first, those which are non-controversial such as those dealing with increase of salaries of judges and retirement provisions; second, the debatable provisions against which some opposition has been evident and; third, the controversial measures, particularly the non-partisan election features of the plan. Concerning the variance between constitutional and statutory provisions relating to placing these proposals on the ballot, Mr. Van Cise suggested that it might be possible to secure the cooperation of the governor in requesting an advisory opinion of the Supreme Court as to the constitutionality of some of the statutes involved. If such an advisory opinion were not called, Mr. Van Cise stated a declaratory judgment action might be had in time.

The desire of the committee to subject to a special session if one could be called on the non-controversiay measures was reported by Mr. Van Cise. He stated that it was the plan of the committee to attempt to secure from all members of the legislature their agreement to vote for the non-controversial matters if a special session were called in the thought that the governor would then be more amenable to the issuance of such a call for such a session.

Mr. Stanley Johnson then answered the queries of the members of the board arising in discussion of the proposals made by Mr. Van Cise on behalf of the Judiciary Committee. Mr. Henderson inquired as to whether there would be other matters in the call for a special session if one were made. Mr. Johnson answered that it was possible that school salaries would also be included if special sessions were called this year. Mr. Johnson suggested that

if the board did not approve the attempts of the Judiciary Committee to secure a special session of the legislature the probable alternative should be to suspend operations of the Judiciary Committee until just prior to the time the new legislature takes office.

One of the members inquired if there was any organized opposition to the judiciary plan. Mr. Johnson stated there was none that he knew of and cited examples of the Colorado Press Association and the Credit Men's Association as being in favor of the plan. Mr. Lattimer stated that the Pueblo area is in favor of the plan and suggested that the major problem was one of educating the public.

The board then discussed the political mechanics involved in the question of whether to take the whole of the judiciary plan to the legislators, which was the suggestion of Mr. Lattimer, or the non-controversial portions of the plan only, which was the suggestion of Mr. Van Cise and the committee. Mr. Mabry stated that in the Trinidad area the whole of the plan except the non-partisan features appeared to have approval. Mr. Robinson stated his opinion as being that the governor would not call a special session unless a great deal of pressure was put on him. Mr. Van Cise then stated that the Judiciary Committee was preparing its bills and would distribute copies of them to all of the legislators within the next two weeks to canvass the individual legislators' opinions as to whether or not they could support such a bill in the event that a special session was called and he requested the concensus of the board. After discussion, it was declared to be the sense of the board that another meeting of the Board of Governors be held on Saturday, March 20, after the legislators have been interrogated as to their attitude toward a special session to enact the non-controversial measures of the committee's plan relating to salaries and tenure. The Judiciary Committee was instructed to make report on its canvass at that time.

Mr. Robinson then read a letter from the chairman of the Committee on Integration of the Bar, which letter suggested that proposals for integrated bar might be included in any special session called. Mr. Mabry and Mr. Calkins stated it to be their opinion that it would be inexpedient at this time to proceed with proposals for integration by legislative action and it was resolved that an attempt by the Colorado bar to foster, by legislative action, any program at integration be temporarily postponed until the Judiciary Committee problems are concluded, but that it was the sense of the board that the Integration Committee be invited to attend and discuss this matter at the March 20 meeting.

The chairman then read letter of Mr. Horace F. Phelps concerning local associations' committees on grievances which was referred to the state Committee on Grievances to contact the local association committees and work out a program relating to procedure on grievance complaints and report to the board on March 20.

Mr. Carpenter then presented a resolution of the Committee on Unauthor-

ized Practice which was discussed by the board. Mr. Lattimer suggested that one of the problems of the unauthorized practice committees is that there is no definite statutory punishment for the unauthorized practice of law and that if specified punishments were included in the statutes the mere threat of the punishments would tend to deter those engaged in unauthorized practice. Mr. Carpenter felt that the power to assess punishment is inherent in the courts. Mr. Carpenter then moved that the Colorado Bar Association petition the Supreme Court to adopt a rule or rules in substantial accordance with the proposal of the Denver Bar as embodied in resolution promulgated by the Unauthorized Practice of Law Committee of the Denver Bar Association dated the 29th day of January, 1948. His motion was seconded and unanimously carried and the president-elect, Mr. Robinson, appointed a committee consisting of: Mr. Carpenter as chairman, Mr. Appel and Mr. Phelps, to present the resolution of the board to the Colorado Supreme Court.

Interim report of the Legislative Committee requesting the action of the Board of Governors concerning the provisions of the Knutson bill now before Congress which relate to community property was presented and it was resolved:

> "That the Board of Governors endorses and approves the provisions of the Knutson bill which provide for division of family income on a community property basis in all states,"

and the secretary was instructed to inform the chairman of the committee, Mr Robert Bosworth of Denver, of the board's action.

Submitted by Mr. Wilbur Rocchio of Denver, the interim report of the Placement Committee was received and placed on file and Mr. Robinson suggested to the members of the board present that they publicize the activities of the Placement Committee as to younger lawyers.

Mr. H. Harold Calkins then importuned the Board of Governors with the annual request of the Junior Bar Section for an appropriation of funds with which to carry on its work. He reported the activities of the Junior Bar Section for the ensuing year is being concentrated in public relations, but stated that his section would continue to offer its aid to any committees and activities of the parent association. It was resolved:

> "That the association furnish to the Junior Bar Section, One Hundred Dollars for its activities within the current year."

After discussion of the visit of the Freedom Train to Colorado this spring, and other topics allied to the public relations of the bar association, the board resolved:

> "That the Public Relations Committee of the Colorado Bar Association and that of the Junior Bar Section be instructed to present a concrete program of public relations at the March 20th meeting of the board."

Mr. Robinson presented the board a report of the Joint Committee on Professions and submitted to the board recommendation of the committee that

a joint institute of physicians and attorneys for the consideration of related problems be held in Denver in the spring, which recommendation was approved by the board. Discussion was then had on the suggestion of the committee that the Board of Governors consider placing one delegate from the Colorado Bar Association on an inter-professional council now in existence. It was the sense of the board that the council should be further investigated and that more definite recommendation be made to the board. Mr. Robinson stated that a member of the Committee on Professions will report to the Board on March 20.

The chairman read to the board a letter of Mr. Frank Hickey, chairman of the Committee on Statutes and Publications, recommending that each lawyer in the state be canvassed as to his opinion on the need of a new statutory compilation. His recommendation was opposed by Mr. Appel on the ground that such a survey would only confirm an already existing consensus that revision is necessary and upon Mr. Appel's motion the board resolved:

> "That the Committee on Statutes and Publications should continue its work without canvass."

The question of sustaining membership and the amount of dues was then discussed by the board. The treasurer stated to the board that twenty-five to fifty per cent of the income of the association was from sustaining memberships and he recommended the continuance of sustaining memberships even if the association should take action to increase the amount of annual dues.

Mr. Henderson gave it as his opinion that the Greeley area would favor $10 annual dues but inquired as to whether a dues advance would result in the publication of Supreme Court opinions. Mr. Wilkes stated that he as well as many of his fellow lawyers miss the publication of Supreme Court opinions. Mr. Phelps then reported that the Board of Trustees of the Denver Bar Association appointed a subcommittee looking to the enlargement of DICTA policies to raise DICTA to a law review statuts.

It being the sense of the board that specific study of the publication problems and financial problems of the Colorado Bar Association should be made before action was taken. Mr. Robinson appointed, as a committee to study the question and report to the March 20th meeting of the Board of Governors, the following: Vernon V. Ketring, chairman, Walter M. Appel, John W. Henderson, Horace F. Phelps, and H. Harold Calkins.

Thereupon the board moved to a discussion of the vacancy now existing in the office of delegate for this association in the House of Delegates in the American Bar Association. A motion that the vacancy be not filled temporarily was carried.

New Members of Denver Bar Association

At the March 1, 1948, meeting of the Denver Bar Association the following were admitted to membership:

Robert Guyer Bonham

Wayne D. Calderwood

Denver Bar Association Will Elect

Denver Bar Association president Horace F. Phelps has appointed a nominating committee to nominate a president, two vice-presidents, two trustees, and members of the Board of Governors of the Colorado Bar Association. The committee consists of John E. Gorsuch, chairman, and Robert E. More, Percy S. Morris, Elmer L. Brock and S. Arthur Henry. All suggestions for nomination should be in the hands of the committee by March 20.

Law Books for Sale

County Judge William Buck, Boulder, has for sale a complete set of American Jurisprudence. Anyone interested in purchasing this set should contact Judge Buck at Boulder or Donald Lesher, secretary of the Denver Bar Association, Midland Savings Bldg., Denver.

Pueblo County Bar Association Elects

The new officers of the Pueblo County Bar Association are:

Riley R. Cloud.....*President*
John L. Faricy.....*Vice-President*
Harold C. Rudolph.....*Secretary-Treasurer*

Lawyers in Public Service

EDWARD E. NEVANS, JR., has been named Assistant United States Attorney for Colorado by United States Attorney Max M. Bulkeley. Mr. Nevans resigned as special attorney for the Mountain States section of the Anti-trust Division of the Department of Justice, which he entered in 1941. He served in the army from 1942 to 1946, being discharged with the rank of captain after serving overseas in Africa and Italy.

STANLEY T. WALLBANK is a vice president of the Denver Community Chest. MARK HARRINGTON, WILLIAM F. MCGLONE and HOWARD S. ROBERTSON are directors.

MAYOR QUIGG NEWTON is a member of the university council of Yale University. Purpose of the council is to develop plans for the constant improvement of the school's academic and administrative affairs.

Personals

CHARLES J. BEISE, BYRON NEID and ROYAL C. RUBRIGHT became members of the firm of Fairfield and Woods on January 1. The firm offices are at 930 First National Bank, Bldg., Denver.

HELEN C. MYERS has moved her office from the Lawyers Bldg. to suite 605 Majestic Bldg., Denver, phone KE 5175.